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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,404	10/02/2002	Florian Beil	298-157	2959

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EXAMINER

BUDD, MARK OSBORNE

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/088,404	BEIL ET AL.	
	Examiner	Art Unit	
	Mark Budd	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

P riod for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26,28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3-18-02</u> . | 6) <input type="checkbox"/> Other: _____. |

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Claims 1-26, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are vague and indefinite. In claim 1, line 10, "is" should be inserted between "device" and "designed". In claim 3 it is unclear what "functionalized in such a manner ..." defines structurally. In claims 6 and 7, there is no disclosure as to what a "tapped" interdigital transducer might be; should this be "tapered"? In claim 8, "receiving two" should read "two receiving". Claims 14-28 purport to define a "method ... for detection of an external variable ..." but no actual steps are claimed. A method must be defined by a series of recognizable steps because of the problems noted above, one cannot determine the actual metes and bounds of these claims.

All the following rejections are on an "as understood" basis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toda (604), Toda (817) or Toda (452) in view of Sugai, Yatsuda or Mariani.

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The Toda references teach input and output transducers for surface acoustic waves which are altered by changing a physical parameter of the SAW substrate. Toda does not use the tapered shape for input and/or output electrodes. However, each of Sugai, Yatsuda and Mariani teach using the tapered transducer finger structures to increase bandwidth and decrease losses. Thus, for at least these reasons it would have been obvious to one of ordinary skill in the art to use tapered transducer fingers in Toda. Regarding claims 3, 10-13, 16 and 24-26 it is noted that the specific SAW wave altering means and SAW uses are all known per se (official notice taken). Selection from and adaptation to of a known use for e.g. Toda would have been obvious to one of ordinary skill in the art as such manipulations have long been considered to lie within the skill expected of the routineer.

Further cited of interest are Brace, Bowers, Lean, Adkins, Stolwyk, Toda (047), De Wames, Skudera, Epstein, Ballato and Lardat.

Budd/ek

11/26/03

MARK J. BUDD
PRIMARY EXAMINER
ART UNIT 2834